

### **REMARKS/ARGUMENTS**

In the Office Action mailed October 2, 2007 (hereinafter, "Office Action"), claims 1-20 and 22-25 stand rejected under 35 U.S.C. § 103. Claims 1, 17-20 and 22 have been amended.

Applicant respectfully responds to the Office Action.

#### **I. Specification**

The Office Action suggested the inclusion of a Brief Summary of the Invention section. (Office Action, page 2). The relevant section of the MPEP states that the "following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use." (MPEP 608.01(a) ¶ 6.01, emphasis added). Additionally, the CFR states that the Brief Summary "should, when set forth, be commensurate with the invention as claimed." (37 CFR 1.73, emphasis added). Therefore, the CFR does not require a Brief Summary of the Invention. The only requirement of the specification is that it "include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same." (37 CFR 1.71). Applicant respectfully submits that the suggested inclusion of a Brief Summary of the Invention, therefore, is merely a suggestion and requests that any objection to the Specification headings be withdrawn.

#### **II. Claims 1-20 and 22-25 Rejected Under 35 U.S.C. § 103**

Claims 1-20 and 22-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0063880 to Raney (hereinafter, "Raney") in view of U.S. Patent No. 6,519,048 to Tanaka (hereinafter, "Tanaka"). This rejection is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary

consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. \_\_\_, 2007 U.S. LEXIS 4745, at \*\*4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). To establish a *prima facie* case of obviousness, the prior art references “must teach or suggest all the claim limitations.” M.P.E.P. § 2142. Moreover, the analysis in support of an obviousness rejection “should be made explicit.” KSR, 2007 U.S. LEXIS 4745, at \*\*37. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicant respectfully submits that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the subject matter of these claims.

Claim 1 has been amended to recite “terminating the background process when the imaging job is completed.” Support for this amendment may be found in Applicants’ specification, for example, page 11, paragraph [56]. Raney, alone or in combination with Tanaka, does not teach or suggest this subject matter.

Instead Raney states:

The device monitoring software 216 comprises the software that monitors functioning of the computing device 104. For instance, the device monitoring software 216 can be configured to monitor communications sent by and to the computing device 104.

Raney, page 2, paragraph [0018].

The Office Action appears to assert that “the background process” is taught by the “device monitoring software” of Raney. (See Office Action, page 3.) However, “software that monitors functioning of the computing device” does not teach or suggest that such software “terminat[es] . . . when the imaging job is completed.” Instead, the monitoring done by the “device monitoring software” of Raney is continuous. For example, Raney states:

Normally, print system health determinations are made in conjunction with the device monitoring software 21[6] located on each computing device 104 as well as the spoolers 312, print queues 314, and despoolers 316 located on the print server 108. As identified above, the device monitoring software

21[6] tracks the performance of the communications of the computing device 104. Preferably, the device monitoring software 216 tracks how often the signals transmitted by the computing device 104 are interrupted during transmission. For example, where the network system 100 operates with an Ethernet networking protocol, the device monitoring software 216 tracks the percentage of data packets that collide with other packets transmitted across network system 100. This information can be shared with the print system monitor 318 as part of the information concerning the health of the print system.

Raney, page 3, paragraph [0027].

Tracking “the performance of the communications of the computing device” does not teach or suggest “a background process . . . [that] terminat[es] . . . when the imaging job is completed.” Instead Raney teaches a continuous monitoring process that “tracks how often the signal transmitted by the computing device are interrupted during transmissions.” There is no teaching or suggestion by Raney that the monitoring process “terminat[es] . . . when the imaging job is completed.” Rather, “the device monitoring software . . . tracks the percentage of data packets that collide with other packets transmitted across network system.” The monitoring process of Raney does not teach or suggest “monitoring the status of the imaging job” and then “terminating the background process when the imaging job is completed.” The monitoring process of Raney “concern[s] the health of the print system” and not “the status of the imaging job.”

The addition of Tanaka does not overcome the deficiencies of Raney. Instead, the Office Action merely points to Tanaka to support the assertion that Tanaka teaches “how a network address of a computing device is obtained.” (Office Action page 3.) The Office Action does not point to, and Applicant cannot find, any teaching or suggestion by Tanaka of “terminating the background process when the imaging job is completed.”

In view of the forgoing, Applicant respectfully submits that claim 1 is patentably distinct from the cited references. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Claims 2-16 depend either directly or indirectly from claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 2-16 be withdrawn.

Claims 17 and 22 have been amended with subject matter similar to the subject matter amended to claim 1. As such, Applicant submits that claims 17 and 22 are patentably distinct from the cited references for at least the same reasons as those presented above in connection with claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 17 and 22 be withdrawn.

Claims 18-20 depend either directly or indirectly from claim 17. Claims 23-25 depend directly from claim 22. Accordingly, Applicant respectfully requests that the rejection of claims 18-20 and 23-25 be withdrawn.

**III. Conclusion**

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wesley L. Austin', written in a cursive style.

/Wesley L. Austin/

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